

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1098

Introduced by Assembly Member Saldana

February 23, 2007

An act to amend Sections 25514.5 and 25540 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1098, as amended, Saldana. Hazardous materials: administrative: penalties: liability.

(1) Existing law requires that, in order to protect the public health and safety and the environment, a business, as defined, establish and implement a business plan, meeting specified requirements, relating to the handling and release or threatened release of hazardous materials. A business that violates or knowingly violates any provision with regard to the business plan is liable to an administering agency for a prescribed administrative penalty.

This bill would remove the requirement that the amount of the administrative penalty be set by the governing board of the administrative agency.

(2) Existing law requires the implementation of the federal accident release prevention program, established pursuant to the federal Clean Air Act, with regard to the handling and storage of chemical and hazardous substances, along with certain amendments specific to the state. If there is a violation of the provisions of the program, specified administrative civil liability shall be imposed. If there is a knowing violation of the provisions of the program, after reasonable notice, specified administrative civil liability shall be imposed, and upon

conviction the person may be punished by imprisonment in the county jail for not more than one year. *An administering agency is required to utilize specified enforcement procedures when an administering agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of those requirements.*

~~This bill would require that a person or stationary source, as defined, that knowingly violates the provisions of the program, after reasonable notice and upon conviction, be punished by a fine not to exceed \$25,000 and imprisonment in the county jail for not more than one year.~~ *make clarifying changes with regard to the administering agency's enforcement of those provisions.*

~~Because this bill would create a new crime, it would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25514.5 of the Health and Safety Code
- 2 is amended to read:
- 3 25514.5. (a) Notwithstanding Section 25514, any business
- 4 that violates this article is liable to an administering agency for an
- 5 administrative penalty not greater than two thousand dollars
- 6 (\$2,000) for each day in which the violation occurs. If the violation
- 7 results in, or significantly contributes to, an emergency, including
- 8 a fire or health or medical problem requiring toxicological, health,
- 9 or medical consultation, the business shall also be assessed the full
- 10 cost of the county, city, fire district, local EMS agency designated
- 11 pursuant to Section 1797.200, or poison control center as defined
- 12 by Section 1797.97, emergency response, as well as the cost of
- 13 cleaning up and disposing of the hazardous materials, or acutely
- 14 hazardous materials.
- 15 (b) Notwithstanding Section 25514, any business that knowingly
- 16 violates this article after reasonable notice of the violation is liable

1 for an administrative penalty, not greater than five thousand dollars
2 (\$5,000) for each day in which the violation occurs.

3 (c) When an administering agency issues an enforcement order
4 or assesses an administrative penalty, or both, for a violation of
5 this article, the administering agency shall utilize the administrative
6 enforcement procedures, *including the hearing procedures*,
7 specified in Sections 25404.1.1 and 25404.1.2.

8 SEC. 2. Section 25540 of the Health and Safety Code is
9 amended to read:

10 25540. (a) (1) Any person or stationary source that violates
11 this article shall be liable for administrative penalties in an amount
12 of not more than two thousand dollars (\$2,000) for each day in
13 which the violation occurs. If the violation results in, or
14 significantly contributes to, an emergency, including a fire, the
15 person or stationary source shall also be assessed the full cost of
16 the county or city emergency response, as well as the cost of
17 cleaning up and disposing of the hazardous materials. ~~When an~~
18 ~~administering agency issues an enforcement order or assesses an~~
19 ~~administrative penalty, or both, for a violation of this chapter, the~~
20 ~~administering agency shall utilize the administrative enforcement~~
21 ~~procedures specified in Sections 25404.1.1 and 25404.1.2.~~
22 *hazardous materials.*

23 (b)

24 (2) Any person or stationary source that knowingly violates this
25 article after reasonable notice of the violation shall be liable for
26 administrative penalties in an amount not to exceed twenty-five
27 thousand dollars (\$25,000) for each day in which the violation
28 occurs. If the violation results in, or significantly contributes to,
29 an emergency, including a fire, the person or stationary source
30 shall also be assessed the full cost of the county or city emergency
31 response, as well as the cost of cleaning up and disposing of any
32 hazardous materials.

33 (3) *When an administering agency issues an enforcement order*
34 *or assesses an administrative penalty, or both, for a violation of*
35 *this article, the administering agency shall utilize the*
36 *administrative enforcement procedures, including the hearing*
37 *procedures, specified in Sections 25404.1.1 and 25404.1.2.*

38 (c)

39 (b) Any person or stationary source that knowingly violates this
40 article after reasonable notice of the violation shall upon conviction

1 ~~be punished by a fine in an amount not to exceed twenty-five~~
2 ~~thousand dollars (\$25,000) for each day that the violation occurs~~
3 ~~and conviction be punished by imprisonment in the county jail not~~
4 ~~to exceed one year. If the violation results in, or significantly~~
5 ~~contributes to an emergency, including a fire, the person or~~
6 ~~stationary source shall also be assessed the full cost of the county~~
7 ~~or city emergency response, as well as the cost of cleaning up and~~
8 ~~disposing of any hazardous materials.~~

9 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
10 ~~Section 6 of Article XIII B of the California Constitution because~~
11 ~~the only costs that may be incurred by a local agency or school~~
12 ~~district will be incurred because this act creates a new crime or~~
13 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
14 ~~for a crime or infraction, within the meaning of Section 17556 of~~
15 ~~the Government Code, or changes the definition of a crime within~~
16 ~~the meaning of Section 6 of Article XIII B of the California~~
17 ~~Constitution.~~